

§ 744.8

requirements of the Foreign Trade Statistics Regulations (15 CFR part 30), except that an SED or AES record is not required when any of these commodities is exported by U.S. airlines to their own installations and agents abroad for use in their aircraft operations.

(3) *Applicable commodities.* This § 744.7 applies to the commodities listed subject to the provisions in paragraph (b) of this section:

(i) Fuel, except crude petroleum and blends of unrefined crude petroleum with petroleum products, which is of non-Naval Petroleum Reserves origin or derivation (refer to short supply controls in part 754 of the EAR);

(ii) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements, except crude petroleum, provided that any commodities which are listed in Supplement No. 2 to part 754 of the EAR are of non-Naval Petroleum Reserves origin or derivation (refer to short supply controls in part 754 of the EAR);

(iii) Medical and surgical supplies;

(iv) Food stores;

(v) Slop chest articles;

(vi) Saloon stores or supplies; and

(vii) Equipment and spare parts.

[61 FR 12802, Mar. 25, 1996, as amended at 65 FR 38160, June 19, 2000; 68 FR 50472, Aug. 21, 2003]

§ 744.8 [Reserved]

§ 744.9 Restrictions on technical assistance by U.S. persons with respect to encryption items.

(a) *General prohibition.* No U.S. person may, without authorization from BIS, provide technical assistance (including training) to foreign persons with the intent to aid a foreign person in the development or manufacture outside the United States of encryption commodities and software that, if of United States origin, would be controlled for EI reasons under ECCN 5A002 or 5D002. Technical assistance may be exported and reexported immediately to nationals of the countries listed in Supplement 3 to part 740 of the EAR (except for technical assistance to government end-users for cryptanalytic items), provided that the exporter has submitted

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to BIS a completed encryption review request by the time of export (as described in § 740.17(a)(3) of the EAR, for technical assistance not otherwise authorized under § 740.17(a)(1) of the EAR). Note that this prohibition does not apply if the U.S. person providing the assistance has a license or is otherwise entitled to export the encryption commodities and software in question to the foreign person(s) receiving the assistance. Note in addition that the mere teaching or discussion of information about cryptography, including, for example, in an academic setting or in the work of groups or bodies engaged in standards development, by itself would not establish the intent described in this section, even where foreign persons are present.

(b) *Definition of U.S. person.* For purposes of this section, the term U.S. person includes:

(1) Any individual who is a citizen or permanent resident alien of the United States;

(2) Any juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches; and

(3) Any person in the United States.

(c) *License review standards.* Applications involving activities described in this section will be reviewed on a case-by-case basis to determine whether the activity is consistent with U.S. national security and foreign policy interests.

[61 FR 68584, Dec. 30, 1996, as amended at 65 FR 62609, Oct. 19, 2000; 69 FR 71364, Dec. 9, 2004]

§ 744.10 Restrictions on certain entities in Russia.

(a) *General prohibition.* Certain entities in Russia are included in Supplement No. 4 to this part 744 (Entity List). (See also § 744.1(c) of the EAR.) Exporters are hereby informed that these entities are ineligible to receive any items subject to the EAR without a license.

(b) *Exceptions.* No License Exceptions apply to the prohibition described in paragraph (a) of this section.

(c) *License review standards.* Applications to export or reexport items subject to the EAR to these entities will